



# UNITED STATES PATENT AND TRADEMARK OFFICE

50  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,507	12/12/2000	Reinhold Hofmann	HOFMANN R1	8813

7590

08/04/2005

Collard & Roe  
1077 Northern Boulevard  
Roslyn, NY 11576

EXAMINER
----------

KASENGE, CHARLES R

ART UNIT	PAPER NUMBER
----------	--------------

2125

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/719,507

Applicant(s)

HOFMANN, REINHOLD

Examiner

Charles R. Kasenge

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6,9 and 11-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,5,6,11 and 30 is/are rejected.
- 7) ☒ Claim(s) 4,9,12-29,31 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 5/25/05, with respect to the rejection(s) of claim(s) 2 and 30 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sipin U.S. Patent 5,759,148.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 recites the limitation "the additional running-time system" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2125

6. Claims 2, 3, 5, 6, 11 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Sipin U.S. Patent 5,759,148. Referring to claims 11 and 30, Sipin discloses an electronic control system for aggregates generating compressed air and vacuum, with programmable electronic circuits for controlling, regulating and monitoring the technical functions of such aggregates (col. 3, lines 43-62), in particular the functions of the compressed air generator or of the vacuum pump and of the associated drives, as well as of the treatment of the compressed air (col. 6, lines 18-29), wherein the electronic control system is configured as a standardized control system for employment in a multitude of different aggregates for generating compressed air or vacuum (col. 3, lines 43-62), and has an industrial PC or industrial microcomputer monitored and controlled by an operating system and comprising one or a plurality of microprocessors and a central data memory (col. 3, lines 43-45) containing at least controlling and regulating software and a multitude of aggregate-specific data profiles in a recallable manner said data profiles comprising the data belonging to the aggregates and their components with respect to the controlling and regulating algorithms (col. 7, lines 40-52) and/or the controlling and/or the regulating parameters and/or the technical characteristics and limit values (col. 13, lines 42-55) and/or the aggregate-specific occupancy of the inputs and outputs (col. 13, lines 13-24). Sipin discloses the control system according to claim 30, wherein the data of each called-up data profile including the data determining the occupancy of the inputs and outputs are variable by means of the control surface and/or via a data interface (col. 4, lines 12-31).

Referring to claims 2, 3, 5, and 6, Sipin implicitly discloses a real-time operating system. Since the control system is electronic, it is interpreted to be real-time. The Office interprets an operating system to be "software that controls the execution of computer programs". Thus it is

Art Unit: 2125

interpreted that an operating system software and programming language exists in the microcomputerized electronic control system (col. 3, lines 43-45 and Fig. 1, 72).

### *Allowable Subject Matter*

7. Claims 4, 9, 12-29, 31, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kasenge whose telephone number is 571 272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

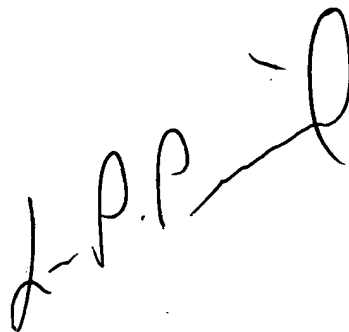
Application/Control Number: 09/719,507

Page 5

Art Unit: 2125

CK

July 29, 2005

A handwritten signature in black ink, appearing to read 'L.P.P.' followed by a large, stylized loop.

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100